



Senate

General Assembly

File No. 177

February Session, 2000

Substitute Senate Bill No. 492

Senate, March 22, 2000

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

An Act Concerning Skilled Mechanics.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 14-1 of the general statutes, as
2 amended by sections 1, 2 and 29 of public act 99-268, is amended by
3 adding subdivision (92) as follows:

4 (NEW) (92) "Skilled mechanic" means a mechanic who (A) is a
5 specialist performing comprehensive automobile diagnostics and
6 mechanical repairs on the total automobile as well as various makes or
7 models, including, but not limited to, transmission assembly, complete
8 brake systems, engine diagnostics, computer systems, chassis, HVAC
9 systems and complex electrical systems; and (B) possesses an
10 associate's degree in automotive service technology from a community
11 college, or has completed an automotive mechanic training program
12 certified by the National Automotive Technicians Education
13 Foundation, or has attained a certification of proficiency from an

14 automotive dealer's training program, or is certified as an ASE
15 automotive technician by the National Institute for Automotive Service
16 Excellence. The term "skilled mechanic" does not include apprentice
17 mechanics, tire and lubrication mechanics, mechanic's helpers or
18 mechanics who work on limited sections of an automobile and
19 perform basic repair and service such as lubricating, tire changing,
20 brake lining service, alignment and fluid changing.

21 Sec. 2. Section 31-76i of the general statutes is repealed and the
22 following is substituted in lieu thereof:

23 The provisions of sections 31-76b to 31-76j, inclusive, shall not apply
24 with respect to [(a)] (1) any driver or helper, excluding drivers or
25 helpers employed by exempt employers, with respect to whom the
26 Interstate Commerce Commission or its successor agency or the
27 Secretary of Transportation has power to establish qualifications and
28 maximum hours of service pursuant to the provisions of applicable
29 federal law or regulation of any employee of a carrier by air subject to
30 the Railway Labor Act or any employee of any employer subject to
31 said Railway Labor Act; [(b)] (2) any employee employed as a seaman;
32 [(c)] (3) any employee employed as an announcer, a news editor or
33 chief engineer by a radio station or television station; [(d)] (4) repealed
34 by 1972, P.A. 116, S. 3, 6; [(e)] (5) any person employed in a bona fide
35 executive, administrative or professional capacity as defined in the
36 regulations of the Labor Commissioner issued pursuant to section 31-
37 60, as amended; [(f)] (6) any person employed in the capacity of
38 outside salesman as defined in the regulations of the Federal Fair
39 Labor Standards Act; [(g)] (7) any inside salesperson whose sole duty
40 is to sell a product or service [(1)] (A) whose regular rate of pay is in
41 excess of two times the minimum hourly rate applicable to [him] such
42 salesperson under section 31-58, [(2)] (B) more than half of whose
43 compensation for a representative period, being not less than one
44 month, represents commissions on goods or services, and [(3)] (C) who
45 does not work more than fifty-four hours during a work week of seven

46 consecutive calendar days. In determining the proportion of
47 compensation representing commissions, all earnings resulting from
48 the application of a bona fide commission rate shall be deemed
49 commissions on goods or services without regard to whether the
50 computed commissions exceed the draw or guarantee; [(h)] (8) any
51 person employed as a taxicab driver by any employer engaged in the
52 business of operating a taxicab, if such driver is paid forty per cent or
53 more of the fares recorded on the meter of the taxicab operated by
54 [him] such driver; [(i)] (9) any person employed in the capacity of a
55 household delivery route [salesman] salesperson engaged in delivering
56 milk or bakery products to consumers and who is paid on a
57 commission basis as defined in the regulations of the Labor
58 Commissioner issued pursuant to section 31-60, as amended; [(j)] (10)
59 any [salesman] salesperson primarily engaged in selling automobiles.
60 For the purposes of this subsection, ["salesman"] "salesperson" includes
61 any person employed by a licensed new car dealer [(1)] (A) whose
62 primary duty is to sell maintenance and repair services, [(2)] (B) whose
63 regular rate of pay is in excess of two times the minimum hourly rate
64 applicable to [him] such person under the provisions of section 31-58,
65 [(3)] (C) more than half of whose compensation for a representative
66 period, being not less than one month, represents commissions on
67 goods or services; and [(4)] (D) who does not work more than fifty-four
68 hours during a work week of seven consecutive days. In determining
69 the proportion of compensation representing commissions, all
70 earnings resulting from the application of a bona fide commission rate
71 shall be deemed commissions on goods or services without regard to
72 whether the computed commissions exceed the draw or guarantee;
73 [(k)] (11) any person employed in agriculture; [(l)] (12) any permanent
74 paid members of the uniformed police force of municipalities and
75 permanent paid members of the uniformed fire fighters of
76 municipalities; [(m)] (13) any person employed as a fire fighter by a
77 private nonprofit corporation [which] that on May 24, 1984, has a valid
78 contract with any municipality to extinguish fires and protect its

79 inhabitants from loss by fire; [(n)] (14) any person, except a person
80 paid on an hourly basis, employed as a beer delivery truck driver by a
81 licensed distributor, as defined by section 12-433; or [(o)] (15) any
82 person employed as a skilled mechanic primarily engaged in the
83 servicing of motor vehicles, as defined in section 14-1, as amended by
84 section 1 of this act, or farm implements, as defined in section 14-1, as
85 amended by section 1 of this act, by a nonmanufacturing employer
86 primarily engaged in the business of automotive or truck repair or
87 selling such vehicles or implements to consumers, to the extent that
88 such employees are exempt under the federal Wage-Hour and Equal
89 Pay Act, 29 USC 201 et seq. and 29 USC 213(b)(10), provided such
90 person's actual weekly earnings exceed an amount equal to the total of
91 [(1)] (A) such person's basic contractual hourly rate of pay times the
92 number of hours such person has actually worked plus [(2)] (B) such
93 person's basic contractual hourly rate of pay times one-half the number
94 of hours such person has actually worked in excess of forty hours in
95 such week. For the purposes of this section, "basic contractual hourly
96 rate" means the compensation payable to a person at an hourly rate
97 separate from and exclusive of any flat rate, incentive rate or any other
98 basis of calculation.

99 Sec. 3. This act shall take effect from its passage.

LAB Committee Vote: Yea 10 Nay 3 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Affected Agencies: Department of Labor

Municipal Impact: None

Explanation**State Impact:**

There will be no fiscal impact for the Department of Labor as a result of the passage of this bill. The bill exempts skilled mechanics who work for an employer primarily engaged in auto and truck repairs from the state overtime laws.

OLR Bill Analysis

sSB 492

AN ACT CONCERNING SKILLED MECHANICS.**SUMMARY:**

This bill ostensibly provides an exemption to state overtime pay laws for skilled mechanics who work for an employer primarily engaged in the auto and truck repair business (see COMMENT). The federal Fair Labor Standards Act (FLSA) and current state law allow overtime law exemptions for mechanics who work for employers that sell vehicles to consumers (primarily, this means auto dealerships).

EFFECTIVE DATE: Upon passage

SKILLED MECHANICS

The bill exempts from state overtime laws skilled mechanics who work for an employer primarily engaged in auto and truck repairs. It defines “skilled mechanic” as a specialist performing comprehensive diagnostics and repairs on the entire car and various car makes and models and has:

1. an associate’s degree in automotive service technology from a community college,
2. completed an automotive mechanic training program certified by the National Automotive Technicians Education Foundation,
3. a certification of proficiency from an automotive dealer’s training program, or
4. a National Institute for Automotive Service Excellence automotive technician certification.

The definition excludes apprentice mechanics, tire and lubrication

mechanics, helper mechanics, and those who work on limited sections of a car and perform basic repair and services.

BACKGROUND

Federal and state overtime laws require employers to pay each covered employee at least one and one half times his regular hourly pay rate for overtime work. In general, both laws require the higher overtime pay rate for each hour exceeding 40 per week. But many exemptions and special provisions apply.

COMMENT

Conflict with Federal Law

The FLSA sets minimum requirements for overtime laws and permits states to enact laws that are equal to or more restrictive than its provisions. State laws that are more lax than federal standards are unenforceable. The bill provides an overtime law exemption to a type of employer for which the FLSA does not provide an exemption, and it is therefore unenforceable.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 10 Nay 3